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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/606,013	06/24/2003	Ronald C. Cagle	HM-72822	5715
7590	11/22/2004		EXAMINER	
Jack C. Munro 28720 Roadside Drive, Suite 225 Agoura Hills, CA 91301				BUECHNER, PATRICK M
		ART UNIT		PAPER NUMBER
		3754		

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	M
	10/606,013	CAGLE, RONALD C.	
	Examiner Patrick M Buechner	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

### A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 24 June 2003.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-20 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,3-5,10-12 and 18 is/are rejected.
- 7) Claim(s) 2,6-9,13-17,19 and 20 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 24 June 2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/24/03</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1 and 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Bishop et al. (US 4,944,429).

Bishop discloses a fluid dispenser having a receptacle (14), with an opening, a retainer (20) having a platform (unlabeled, top of screw cap 20) with a connector opening for the nozzle (36) of the pump assembly (34) and opposing sidewalls (26). Bishop also discloses a cover (22) connected to the nozzle (36) for actuation of the pump means.

Bishop also discloses the cover having an open interior for the nozzle (Figure 1) and the cover having guide means (56) that compliment with guide means on the retainer (20) that secure the nozzle in a predetermined position and control movement of the cover relative to the retainer. The guide means (56) also interact with stop means (30) on the retainer to provide an uppermost inactive position, the biasing means of the pump (40) keeping the assembly biased in the uppermost inactive position.

3. Claims 10-12 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Kneer (WO 99/16552)

Kneer discloses a fluid dispenser having a housing (16) with an inner receptacle (1) and a retainer assembly (generally 23) having a platform (22) with a connector opening (not labeled)

and a pump assembly (6) engaged with the opening where the pump has a crown portion (21) secured to the connector opening and having a bore for the flow tube (both unlabeled). Kneer also discloses a pump head (unlabeled defining nozzle 13) fixed to a shaft connected to the flow tube. Kneer also discloses retention means (25a and 27a) for releasably securing the retainer to the housing.

*Allowable Subject Matter*

4. Claims 2, 6-9, 13-17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Crasper (US 4,620,646), Ten Wolde (US 5,016,781), Farner (US 5,25,227), Sadow (US 6,092,694) and Chen (US 6,305,580).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick M Buechner whose telephone number is (703) 308-2602. The examiner can normally be reached on 6:30am-5:00pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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MICHAEL MAR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700